

HON. JAMES L. ROBART

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

TOBY MEAGHER, through his Power of
Attorney, GERALDINE MCNAMARA,

Plaintiff,

v.

KING COUNTY, and OFFICERS RODNEY
PRIOLEAU, BRIAN O'FARRELL, THERON
MCCAIN JR., RONNY LEE KINTNER, J.
GARCIA, AND DEFENDANT DOES 1 – 10,

Defendants.

NO. 2:19-CV-00259 JLR

FIRST AMENDED COMPLAINT

Plaintiff Toby Meagher, through his Power of Attorney, Geraldine McNamara, and by and
through PETERSON | WAMPOLD | ROSATO | FELDMAN | LUNA, alleges as follows:

1. INTRODUCTION

1.1. Plaintiff Toby Meagher, through his Power of Attorney, Geraldine McNamara (Mr. Meagher's mother), brings this action for damages against King County and the individually named officers and Defendant Does, all of whom are employees of the King County Department of Adult and Juvenile Detention (KCDOAJD). The Defendants here failed to protect Mr. Meagher from the obvious and foreseeable attack by a fellow inmate, despite knowing about the high risk the inmate posed to *every* inmate and to Mr. Meagher – who suffers from a schizoaffective disorder and schizophrenia – in particular.

1 1.2. On July 15, 2018, King County Jail inmate Troy Leae beat his cellmate, Plaintiff
 2 Toby Meagher, to a bloody pulp. Mr. Leae bashed Mr. Meagher's face against the cell's steel sink
 3 and stomped on his head, which bounced hard against the concrete floor. Mr. Leae continued
 4 beating Mr. Meagher even after his body lay unconscious beneath the flurry of punches, stomps,
 5 and kicks, and even after several KCDOAJD officers, weapons in hand, ordered Mr. Leae to stop.
 6 It was not until Mr. Leae was tackled and tased that he relented against Mr. Meagher, and instead
 7 turned his rage against the interfering officers. The photos below give a glimpse into the brutality
 8 of the assault:



1.3. As the pictures suggest, the beating left Mr. Meagher with debilitating physical injuries: broken bones in his face, damaged facial nerves, broken teeth, lacerations and bruises all over his battered body and – worst of all – a traumatic brain injury. His brain injury and the trauma associated with the attack itself not only caused Mr. Meagher immediate physical and psychological harm, they also exacerbated his mental disorder and have deeply affected his ability to communicate. While these symptoms are well-documented in Mr. Meagher’s medical records, they are best captured by audio recordings of Mr. Meagher from before and after the incident. In a voicemail recording left by Meagher just before he was attacked (which can be heard at <https://vimeo.com/312845736>, using password “meagherassault”), Mr. Meagher’s voice was clear, quick, and coherent, as he asks his mother to look up a telephone number for him. After the attack, Mr. Meagher called his mother again (this voicemail can be heard at <https://vimeo.com/312846078>, using password “meagherassault”); in that recording his barely audible voice stammers in a struggling drone and he is virtually incoherent. While Mr. Meagher’s ability to speak has improved slightly since then, he still struggles to string a sentence together. He spends much of his time confused and upset, constantly revisiting the attack itself, and plagued by nightmares, insomnia, and paranoid thoughts that center specifically around Mr. Leae and the attack. The lasting impact of this horrific beating on Mr. Meagher’s mental condition is not yet known.

1.4. The assault that caused these horrific injuries was not an unpreventable assault by an unpredictable inmate. To the contrary, it was so foreseeable that just nine months earlier, KCDOAJD employees changed Mr. Leae’s housing classification to “ultra security,” the most rigorous security classification available to jail inmates, based on Mr. Leae’s history of violence against fellow inmates. “Ultra security” inmates, according to KCDOAJD’s own policies, require separate housing. This change in classification, which followed an especially violent and random attack by Mr. Leae against a fellow inmate, was intended to ensure that Mr. Leae would be physically separated from other inmates, to whom he posed a constant and serious threat of

1 physical violence. Despite Mr. Leae's "ultra security" classification and his known history of
2 unprovoked violence against inmates, the Defendants here failed to house Mr. Leae separately
3 from other inmates as required by his classification and in accord with his known history of
4 violence against inmates.

5 1.5. Instead, KCDOAJD employees locked the mentally ill Mr. Meagher in the same
6 cell as the homicidal Mr. Leae, walled in by cement, steel and glass, a decision that effectively
7 granted Mr. Leae free reign over his vulnerable victim. Such conduct, by the very individuals
8 tasked with ensuring Mr. Meagher's safety within the jail and in light of the foreseeability and
9 preventability of the attack, was far beyond negligence – it was an act of reckless disregard for Mr.
10 Meagher's safety and a blatant violation of KCDOAJD policy and Mr. Meagher's most basic due
11 process rights.

12 1.6. The indifference shown to Mr. Meagher's rights is exacerbated by the fact that
13 KCDOAJD employees not only improperly housed Mr. Leae; its employees also improperly
14 classified and housed Mr. Meagher. When Mr. Meagher arrived at the King County Jail in July
15 2018, he had been transferred from Western State Hospital, a State-run mental hospital where Mr.
16 Meagher had undergone an evaluation to determine his mental competency to stand trial, given his
17 decades-long diagnosis of schizoaffective disorder. In light of his diagnosis and ongoing mental
18 health issues, KCDOAJD's own policies – not to mention any application of reasonable conduct
19 – also required the King County Jail employees to house Mr. Meagher in a cell separate from other
20 offenders, especially offenders likely to prey upon his particular vulnerabilities, like Mr. Leae.
21 Had they housed Mr. Meagher appropriately, Mr. Leae could never have assaulted him. Their
22 failure to do so represents yet another negligent act by KCDOAJD employees that was a cause of
23 extreme harm to Mr. Meagher.

24 1.7. But KCDOAJD's misconduct did not end with the improper classification and
25 housing of each of these inmates under the circumstances, given Mr. Leae's violent history and
26 Mr. Meagher's urgent mental health needs. KCDOAJD also had additional opportunities to

1 prevent the assault before it occurred, but took no action to do so. After all, Mr. Leae was housed
2 together with Mr. Meagher for several days before his final assault. During that time, Mr. Meagher
3 made repeated requests to KCDOAJD employees to be transferred away from Mr. Leae because
4 he was afraid of Leae and believed that he was going to be attacked. These requests were ignored
5 by the jail officers, including King County Jail Officer J. Garcia, who made only a passing
6 reference to the request by Mr. Meagher in his supplemental report following the attack.

7 1.8. Had Officer J. Garcia or any of the other officers who heard Mr. Meagher's pleas
8 acted with anything other than reckless disregard for his safety and his due process rights, they
9 would have either (1) immediately separated Mr. Meagher from Mr. Leae, (2) informed themselves
10 of the housing and classification errors made with respect to the confinement of each inmate and
11 then separated them, or (3) informed their supervisors, who would have discovered the same and
12 then separated the two inmates. But Officer J. Garcia and his fellow officers did nothing. This
13 failure permitted the horrific assault to occur even in the face of repeated warnings and requests
14 from Mr. Meagher that he was in fear of Mr. Leae and needed to be transferred.

15 1.9 The misclassifications that resulted in housing Mr. Leae together with Mr. Meagher
16 were not only acts of negligence and serious violations of Mr. Meagher's civil rights, they were
17 also a breach of the contract between King County and the ACLU of Washington entitled
18 *Settlement Agreement By and Between ACLU of Washington, Calvin Hammer, Edward Boekel,*
19 *Melton Atkins, and Wilborn Kelley Stevens*, known commonly as the "Hammer Agreement." The
20 Hammer Agreement required King County to properly identify and classify inmates with "records
21 of violent, assaultive or ongoing aggressive behavior," to use that classification to impose an
22 "appropriate initial housing assignment consistent with the security requirements of the inmate in
23 question," and to ensure that any movement of an inmate from one cell to another is also
24 "appropriate under the circumstances." Hammer Agreement, §§ 3.1.2-3.3. Through the conduct
25 of its officers, King County breached this agreement. As a KCDOAJD inmate, Mr. Meagher was
26 a third party beneficiary of this agreement, and its breach caused him significant and permanent

1 harm.

2 1.9. Mr. Meagher, through his Power of Attorney – his mother Geraldine McNamara –
3 seeks redress against King County and its individual employees responsible for failing to protect
4 him from this obvious and foreseeable harm. Defendant King County was made aware of
5 Plaintiff's claims on November 20, 2018, but has made no effort to resolve this claim or even reach
6 out to the victim or his family, compelling Plaintiff to file suit against it and the individual
7 Defendants. The particulars of Mr. Meagher's claims are established in detail below.

8 2. PARTIES

9 2.1. Defendant King County is a political subdivision of the State of Washington.
10 Among other things, King County operates the King County Department of Adult and Juvenile
11 Detention (KCDOAJD), which provides jail services for inmates confined in the King County Jail.

12 2.2. Defendants Rodney Prioleau, Brian O'Farrell, Theron McCain Jr., Ronny Lee
13 Kintner, and Officer J. Garcia are KCDOAJD employees who, at all times relevant hereto, were
14 acting under color of law as employees and agents of King County, through their employment as
15 jail workers for the KCDOAJD.

16 2.3. Defendant Does 1-10 are also KCDOAJD employees who, at all times relevant
17 hereto, were acting under color of law as employees and agents of King County, through their
18 employment as jail workers for the KCDOAJD. Plaintiff is not yet aware of the identities of the
19 individual KCDOAJD employees responsible for the classification and housing of Troy Leae, or
20 the Shift Commanders responsible for properly housing Troy Leae and Plaintiff Toby Meagher.
21 Nor is Plaintiff currently aware of the identity of the additional KCDOAJD employees – besides
22 Defendant Officer J. Garcia – who heard Plaintiff Meagher's request to be moved to a separate
23 cell to be protected from Leae. Thus, these Defendants will be referred to herein as Defendant
24 Does 1-10. Once the identity of each is ascertained through discovery, Plaintiff will amend the
25 complaint to reflect the specific identity of each.

1 2.4. Plaintiff Toby Meagher is a resident of King County. Plaintiff Meagher brings
2 claims individually through his power of attorney, Geraldine McNamara.

3 **3. JURISDICTION AND VENUE**

4 3.1. This Court has both personal and subject matter jurisdiction and venue is properly
5 in King County.

6 3.2. A claim for damages against King County was properly filed with the King County
7 Clerk of the Council on November 20, 2018. More than 60 days have elapsed since the claim was
8 filed and all other prerequisites to suit have been satisfied.

9 3.3. Mr. Meagher brings these claims under Washington law and 42 U.S.C. § 1983.

10 **4. STATEMENT OF FACTS**

11 4.1. On July 2, 2018, 43-year-old Toby Meagher, the Plaintiff here, was transferred
12 from Western State Hospital to the King County Jail to await the disposition of a criminal charge
13 in King County Superior Court and to address his competency status. Mr. Meagher measured 5'9"
14 and weighed 145 pounds. Before his arrival at King County Jail, he had been institutionalized at
15 Western State Hospital on five separate occasions to address his schizoaffective disorder, a serious
16 mental health disability that has affected Mr. Meagher most of his adult life. The mental health
17 experts who had evaluated him at Western State Hospital found that Mr. Meagher's competence
18 to stand trial could not likely be restored, given his psychiatric disability.

19 4.2. Given Mr. Meagher's disability, KCDOAJD – according to the reasonable
20 application of its own policies – was required to provide separate housing for him away from the
21 general population of inmates and with special accommodations for his illness. KCDOAJD's
22 policy requires "classification staff and corrections staff to identify appropriate inmate housing
23 assignments within designated medical and psychiatric housing." *See* KCDOAJD Policies
24 6.01.012 and 6.03.003, regarding "Critical Inmate Placement." King County defines a mental
25 disability as "[a]ny mental or psychological disorder..." and provides for separate housing for
26 inmates with "psychiatric" issues. *See* Policies 6.01.012 and 6.03.001.

4.3. But in violation of these internal governmental policies, the Classification Program Specialists (CPSes), the CPS Supervisors, and the Shift Commanders responsible for proper classification and housing of inmates at the King County Jail placed Mr. Meagher in a cell with other inmates that eventually included the homicidal Mr. Leae. King County Jail records indicate that the CPS who made the decision regarding the classification and housing of Mr. Meagher was Defendant Theron McCain, Jr. The CPS Supervisors, who made the same decision, were Ronny Lee Kintner and Brian O'Farrell. The Shift Commanders, also responsible for proper classification and housing, are not yet identified, and remain Defendant Does 1-10 until their identification through discovery, at which point Plaintiff will amend the complaint.

4.4. A few days before July 15, 2018, inmate Troy Leae was placed in the same cell as Mr. Meagher. Mr. Leae was a 5'11", 240-pound inmate (much larger than the 145-pound Mr. Meagher), who was being held on assault charges and had a long and documented history of violence. On August 6, 2017, Mr. Leae broke out of restraints at Harborview Medical Center, and attacked several Harborview employees, knocking one unconscious with a punch to the face. Then he punched a computer monitor, bending it in half. Seattle Police Department's Records Management System's printout for Mr. Leae includes the following admonition to other officers: "WARNING [MR. LEAE] HAS BEEN IDENTIFIED AS A VIOLENT OFFENDER OR A SERIOUS THREAT TO LAW ENFORCEMENT... USE EXTREME CAUTION IN APPROACHING THIS INDIVIDUAL... VIOLENT PERSON... VIOLENT TENDENCIES...."

4.5. Mr. Leae's history of violence also included an assault against an inmate that occurred on October 28, 2017. During that incident, Mr. Leae was in a dayroom of the King County Jail when he suddenly attacked fellow inmate Jeremiah Sullivan. The Certification for Determination of Probable Cause signed by a King County Jail Sergeant describes the incident as follows:

At 1900 hours, Officer Johnston heard yelling coming from the dayroom of Lower C tank. Officer Johnston observed Sullivan, Jeremiah 217028816, on the floor curled up in the fetal position while Leae, Troy 217023211 was kicking and punching with closed fists, Sullivan in the upper torso and head/face area as he

attempted to cover his face with his arms for protection. Leae continued to circle around Sullivan kicking and punching him in the upper torso and head/face area as Sullivan used his feet to move his body around in a circle to attempt to spin away from Leae's kick and punches. Leae continued to ignore directives from Officer Johnston to stop assaulting Sullivan.

As staff responded to the assault, the dayroom door is opened and it is visible in the video the two red laser dots from an energized Taser being aimed at Leae and he stops his assault and walks off away from Sullivan.

A review of the facility video shows that Leae comes from behind Sullivan and starts his assault by punching Sullivan in the head in an unprovoked attack. Sullivan was bleeding from the nose and mouth and received multiple scrapes and contusions. Based on the information provided above, I am requesting review for the filing of charges of Assault 2nd Degree for Troy Leae's unprovoked attack on Jeremiah Sullivan by punching him in the head from behind and then continuing to kick and punch Sullivan in the upper torso, face, and head.


Photographs of Mr. Sullivan following the attack capture his face and clothing covered in blood from the unprovoked beating. This attack eventually resulted in one of many criminal assault charges leveled against Mr. Leae.

4.6. After his October 2017 attack against Mr. Sullivan, Mr. Leae's classification status was officially changed to "ultra security" by the Shift Commander at King County Jail "in accordance with [King County Jail] policies" as follows:

J Shift Commander / CCD Chief of Operations Comments / Chief of Operations/Security	
<p><i>Appropriate action taken by staff. Review of video clearly indicates a serious unprovoked assault.</i></p> <p><i>I/m LEAE has a history of unprovoked assaults, gang affiliations, psychiatric issues,</i></p> <p><i>I/m LEAE RECLASSIFIED AS ULTRA SECURITY. AB</i></p>	
<p>Recommendations, Notifications and/or Referrals:</p>	
<p>Recommend: (Check all boxes that apply)</p> <p><input checked="" type="checkbox"/> Action Taken Appropriate (in accordance with policies)</p> <p><input type="checkbox"/> Remedial Training/Other Action (Attach Separate Report)</p> <p><input type="checkbox"/> Use of Force Preliminary Investigation</p>	<p>Notifications:</p> <p><input type="checkbox"/> Command Staff</p> <p><input type="checkbox"/> Executive Duty Officer (EDO)</p>
<p><i>TABALAN</i> <i>10/30/17</i></p> <p>Reviewed by Shift Commander / Chief of Operations/Security (print and sign) Date</p>	

This classification was approved by Major Clark, the Division Major, on October 30, 2017:

<input type="checkbox"/> Special Investigations / Criminal Investigations	<input type="checkbox"/> Law Enforcement Agency
<input type="checkbox"/> Internal Investigations Unit	<input type="checkbox"/> Force Review Committee
<input type="checkbox"/> Returned to Shift for Follow-Up	
<input type="checkbox"/> PREA	
<input type="checkbox"/> Training Unit	
<input type="checkbox"/> Policy Unit	


 Reviewed by Division Major / Division Director/Designee (print and sign)

10/30/17
 Date

Mr. Leae's "ultra security" classification was accompanied by an admonition that "Jail House Psych" be informed of Mr. Leae's "continued violent behavior and given a strong recommendation for no further group status" in the future.

4.7. King County's intergovernmental policies for its jail define this "ultra security" category as the "highest security and classification management status" applicable to inmates. *See* KCDOAJD Policy 6.03.001. The classification applies to inmates who pose certain risks, including inmates who have been "assaultive to staff or other inmates." *Id.* Such inmates must be placed in "restrictive housing," separate from other inmates. *Id.* King County Jail's Shift Commander/s are required to "[e]nsure that inmates deemed Ultra Security status are placed into restrictive housing" to protect other inmates and Corrections Program Specialists are required to screen such inmates into such housing. *Id.* Further, "Ultra Security status inmates may only be removed by the division major, CPA, or higher authority." *Id.*

4.8. By July of 2018, Mr. Leae was back in King County Jail. There is no indication that Mr. Leae's classification status was changed since he had attacked Mr. Sullivan in October 2017. Despite Mr. Leae having received a classification as an "ultra security" inmate, the King County Jail records memorializing this classification, and an expressed concern by King County Jail supervisory staff that Mr. Leae's violent propensity posed a life-threatening danger to other inmates, Mr. Leae was apparently returned to the general population.

4.9. According to a King County public disclosure response, Defendant Rodney Prioleau was the CPS tasked with determining the proper housing and classification for Mr. Leae during his July 2018 confinement at the King County Jail. The identity of his supervisor and the

1 Shift Commanders also responsible for Mr. Leae's July 2018 classification and housing are not
2 yet known, and so are referred to herein as Defendant Does 1-10. Once they are identified, the
3 complaint will be amended to reflect the identity of each. CPS Prioleau and the pertinent
4 Defendant Does, like all of the KCDOAJD employees discussed here, were KCDOAJD employees
5 working within the scope of their employment and under color of law. It was the obligation of
6 CPS Prioleau and these Defendant Does, along with the other Defendants, to ensure that Mr.
7 Meagher's rights under Washington law and under the U.S. Constitution were protected, and that
8 he was protected from the foreseeable assaults of other inmates.

9 4.10. Negligently and in violation of his due process rights, Mr. Meagher was housed
10 together with Mr. Leae, a violent inmate known for randomly attacking his fellow inmates, without
11 regard for the classification status of Mr. Leae. Mr. Leae had a history of attacking fellow inmates
12 and, according to King County Jail's own records, was considered a dangerous and unpredictable
13 inmate who was required by KCDOAJD's clear policies to be housed separately from other
14 inmates. Placing Mr. Leae in Mr. Meagher's cell violated these internal governmental policies,
15 was unreasonable and negligent, and violated Mr. Meagher's civil rights. Further, such conduct
16 showed reckless disregard for Mr. Meagher's safety and constitutional rights.

17 4.11. Once they were housed together, Mr. Leae began to threaten Mr. Meagher. Afraid
18 of the much larger, stronger, and more aggressive Mr. Leae, Mr. Meagher repeatedly told
19 Defendant Officer J. Garcia about his concerns, and asked to be moved to another cell. But Officer
20 J. Garcia refused. Mr. Meagher also recalls (and later reported) telling other jail officers the same
21 thing, but they have not yet been identified. Thus, they are referred to as Defendant Does 1-10
22 until their identities are made clear in discovery, at which point Plaintiff will amend the complaint
23 to add their particular identities.

24 4.12. On July 15, 2018, Mr. Leae predictably carried out his threats and attacked Mr.
25 Meagher in the cell. One King County Jail officer described the assault as follows:

26 On 7/15/18 at approximately 1358 hours I responded a Code [] that was called
for 4N08UA02. Upon my arrival onto the wing, I was directed up the stairs to UA02

by ... [Officer Garcia]. I saw Inmate [Leae] repeatedly kicking Inmate Meagher, Toby BA# 217025030 in the ribs and the head. There was blood all over the cell and Inmate Meagher appeared to be unconscious and he was bleeding heavily from his head. Officer J. Diaz-Flores stood up on the day room table and drew his Taser. When I saw Officer Diaz-Flores do this, I exited the tank and yelled down to the deck officer to pop the door. My reason for having the door popped before a Sgt. responded, was because I believed that Inmate [Leae] would have killed Inmate Meagher because of the viciousness of his attack on Inmate Meagher.

During the attack, Mr. Leae bashed Mr. Meagher's head against the steel sink of the cell and stomped on his head, which bounced against the concrete floor of the cell. The beating continued even after Mr. Meagher lay unconscious on the floor. When jail officers finally opened the door and pulled a raging Mr. Leae off of the unconscious Mr. Meagher, some officers were concerned that Mr. Meagher was dead: the cement floor of the cell and stainless steel sink within the cell were soaked in blood, and Mr. Meagher's face was beaten beyond recognition:



Eventually, Mr. Leae was charged with felony assault by the King County Prosecutor's Office, who simultaneously filed assault charges for Mr. Leae's assault of Mr. Sullivan seven months earlier. The King County Prosecutor's Office has since given notice of its intent to file either assault in the first degree or attempted murder charges against Mr. Leae for his attack against Mr. Meagher.

4.13. Following the attack, the King County Jail's infirmary staff made the decision to transport Mr. Meagher to Harborview Medical Center, where he was treated for a traumatic brain

1 injury, broken bones in his nose and face, broken teeth, nerve damage in his face, and lacerations
2 and bruising all over his body. Even after Harborview Medical Center returned Mr. Meagher to
3 the jail following treatment, King County Jail returned him for additional treatment at Harborview
4 because of the extent of his injuries.

5 4.14. Four days after the assault, Defendant Officer J. Garcia admitted in a supplemental
6 report that, on the day of the beating, “Inmate Meagher had used his call button to ask if he could
7 move” to another cell because of concerns with his cellmate, Mr. Leae. But Officer Garcia –
8 whose report indicates that he knew that Mr. Meagher was “awaiting a psych cell to come
9 available” – refused to accommodate Mr. Meagher’s request and failed to inform a supervisor of
10 the request. As discussed above, Defendant J. Garcia was not the only officer from whom Mr.
11 Meagher sought help before the beating, but Mr. Meagher’s requests went unheeded by every
12 KCDOAJD employee who heard them.

13 4.15. Five days after the assault, Sergeant Crow of the King County Jail wrote a letter to
14 Major Clark of the Jail informing him that, after Mr. Meagher returned to King County Jail from
15 Harborview, Mr. Meagher reported that before the beating he had “told Officers Inmate Leae was
16 going to attack him.” Despite these warnings and requests for a transfer, no King County Jail
17 employee took any steps to properly house Mr. Meagher or otherwise protect Mr. Meagher from
18 this brutal and foreseeable beating.

19 4.16. In addition to the physical injuries to his face and body, the attack has caused Mr.
20 Meagher to suffer from acute memory problems, altered speech, has greatly exacerbated his
21 confusion, insomnia, and paranoia, and has likely caused him PTSD. His medical records indicate
22 “significantly reduced intelligibility, impaired comprehension, reduced memory recall and
23 problem solving for safety.” This is best exemplified in two voicemail recordings left by Mr.
24 Meagher before and after the assault. In the first (which can be heard at
25 <https://vimeo.com/312845736>, using password meagherassault), Mr. Meagher’s voice is clear,
26 quick, and coherent as he asks his mother to look up a telephone number for him. But in the second

1 recording (this voicemail can be heard at, <https://vimeo.com/312846078> using password
2 meagherassault) – left after the beating – Mr. Meagher’s voice stammers in a struggling drone and
3 he is virtually incoherent.

4 4.17. Further, a video of Mr. Meagher’s mental condition after the meeting shows a
5 similar struggle to speak and form ideas (visit <https://vimeo.com/312811751>, using password
6 meagherassault). All forms of communication, including his handwriting, have been severely
7 impacted by the injuries that he sustained, and his symptoms from his already-existing mental
8 illness have been worsened by the physical and psychological trauma that he suffered, and
9 continues to suffer, because of this brutal attack. Indeed, Mr. Meagher’s mind was already prone
10 to extreme bouts of anxiety and paranoia – this attack has heightened his symptoms incomparably
11 and has given them a single focus: Mr. Meagher is perpetually in fear that Mr. Leae or his brother
12 – whom Mr. Meagher believes to be a gang member and criminal – will hunt him down and kill
13 him. This fear plagues him day and night.

14 4.18. By failing to follow KCDOAJD’s clear policies regarding the classifying of inmates
15 like Mr. Leae, who was known to pose a high risk to inmates, and who had been classified as an
16 “ultra security” inmate (a classification that expressly precluded KCDOAJD employees from
17 housing Mr. Leae with other inmates), CPS Prioleau, his supervisors, and the Shift Commanders
18 responsible for classifying and housing Mr. Leae here (designated as Defendant Does) acted
19 unreasonably and were negligent, in violation of Washington law. This negligent failure to protect
20 Mr. Meagher, an inmate in their care and custody to whom they owed a particular duty of care,
21 was a proximate cause of Mr. Meagher’s injuries.

22 4.19. Similarly, CPS Theron McCain, Jr., CPS Supervisors Ronny Lee Kintner and Brian
23 O’Farrell, and the failure of pertinent Defendant Does (the Shift Commanders also tasked with Mr.
24 Meagher’s classification and housing) to properly and reasonably classify and house Mr. Meagher
25 based on his mental health disability separately from other inmates like Mr. Leae, was also
26 negligent conduct in violation of intergovernmental policies and their duty to protect Mr. Meagher,

1 an inmate in their care and custody. Such misconduct proximately caused Mr. Meagher's injuries.

2 4.20. Additionally, Defendant Officer J. Garcia and pertinent Defendant Does (additional
3 individuals aware that Mr. Meagher had requested to be moved to a separate cell once Mr. Leae
4 was improperly housed with Mr. Meagher), also failed in their duty to protect Mr. Meagher from
5 the obvious risk of injury from his violent cellmate. Officer Garcia and any other officers who
6 received such notice not only failed to move Mr. Meagher or Mr. Leae to a separate cell in response
7 to Mr. Meagher's requests to be moved away from Mr. Leae, they failed to even consult the records
8 of either inmate in response to the requests by Mr. Meagher or to alert a supervisor of his request.
9 Such simple actions would have – or at least *should* have – alerted the officers of the errors made
10 by the jail's classification and housing unit with respect to the classification of both inmates and
11 of the need to protect Mr. Meagher immediately and – at a minimum – house him in a cell that
12 would accommodate his disability in accord with KCDOAJD's own policies. This conduct was
13 negligent under Washington law and was a proximate cause of Mr. Meagher's injuries.

14 4.21. Indeed, all jail officers and employees have a special relationship to the inmates for
15 whom they are responsible, and failing to protect an inmate from an obvious danger like the
16 foreseeable attacks by Mr. Leae is a violation of that duty and relationship under Washington law.
17 The individually named Defendants and pertinent Defendant Does 1-10 here violated that duty,
18 proximately causing Mr. Meagher's injuries. King County, for its part, is vicariously liable for the
19 conduct of its employees, as described above.

20 4.22. "Jailers have a duty to protect pretrial detainees from violence at the hands of other
21 inmates...." *Castro v. County of Los Angeles*, 833 F.3d 1060 (9th Cir. 2016). Where a jail officer
22 fails to take measures to protect a pretrial inmate from assaults by other inmates in light of
23 substantial evidence that the inmate is at high risk and the inmate is injured by the officers' failure,
24 the officer or jail employee also violates the inmate's Fourteenth Amendment due process rights,
25 forming the basis for a failure-to-protect claim under 42 USC § 1983.

1 4.23. In violation of his Fourteenth Amendment due process rights, the conditions of Mr.
 2 Meagher's confinement at the King County Jail presented a substantial risk of serious harm to him
 3 insofar as he was confined in close proximity to an unstable and violent inmate with a history of
 4 randomly attacking fellow inmates. The danger was known and appreciated by Defendants. The
 5 CPS Defendants, the CPS supervisor Defendants, and pertinent Doe Defendants (individuals who
 6 were tasked with ensuring the proper classification and housing of Mr. Meagher and Mr. Leae)
 7 violated Mr. Meagher's due process rights by housing Leae in the same cell as Mr. Meagher. The
 8 CPSes, their supervisors, and the pertinent Shift Commanders here were aware of the clear and
 9 present danger to Mr. Meagher, but disregarded the danger and failed to take appropriate steps
 10 required by the Fourteenth Amendment due process clause to protect inmates from the foreseeable
 11 attacks by other inmates, causing Mr. Meagher's injuries. Under *Castro*, this conduct constitutes
 12 a Fourteenth Amendment failure to protect claim under 42 USC § 1983.

13 4.24. Further, because Mr. Leae's jail records were replete with warnings and orders that
 14 he not be housed with another inmate because of his violent tendencies, there is far more than
 15 "substantial evidence that a reasonable officer in the circumstances would have appreciated the
 16 high degree of risk involved and that the officers' failure to take reasonable measures" to protect
 17 Mr. Meagher, also justifying a Fourteenth Amendment claim under 42 U.S.C. § 1983. *See Castro*,
 18 833 F.3d at 1071-2.

19 4.25. Additionally, the actions of Officer J. Garcia and pertinent Defendant Does
 20 (individuals who failed to take any action once Mr. Meagher asked to be transferred) should have
 21 been informed by the surrounding circumstances, Mr. Meagher's own pleas, Mr. Leae's jail record
 22 history and classification, regarding the danger that Mr. Meagher was in while being housed with
 23 Mr. Leae, and should have protected him. These facts are not only evidence of negligence, they
 24 also form the basis for a separate failure to protect claim under 42 U.S.C. § 1983. Officer J. Garcia
 25 and any pertinent Defendant Does who failed to take any action once Mr. Meagher informed them
 26 that he needed to be transferred, failed to appreciate the high degree of risk involved even though

1 it was obvious and the attack was foreseeable. Their failure to appreciate this risk and take
 2 reasonable measures to protect Mr. Meagher even after he informed officers of his concerns, was
 3 another proximate cause of his injuries. This failure was a violation of Mr. Meagher's due process
 4 rights, and forms the basis for a separate claim under 42 U.S.C. § 1983.

5 4.26. The conduct of CPS Rodney Prioleau and CPS Theron McCain, Jr., CPS
 6 Supervisors Ronny Lee Kintner, Brian O'Farrell, Officer J. Garcia and Defendant Does 1-10, as
 7 described above, shows reckless disregard toward Mr. Meagher's safety and complete indifference
 8 to his constitutional rights. Such conduct also warrants punitive damages against each individual
 9 Defendant and pertinent Defendant Does.

10 4.27 Additionally, KCDOAJD's classification policies discussed above were initiated as
 11 a result of the 1989 "Hammer Agreement," a settlement agreement that King County reached with
 12 the ACLU and several plaintiffs following lawsuits against the county for, among other things,
 13 failing to protect inmates from assaults by other inmates. This agreement remains in place today
 14 (and until the foreseeable future), and includes the following language:

15 § 3.1.2 Pre-Classification Identification of Inmates with Records of Violent,
 16 Assaultive or Ongoing Aggressive Behavior in KCCF [King County
Correctional Facility]

17 King County will maintain a procedure to identify and integrate within records
 18 systems inmates with documented violent, assaultive or ongoing aggressive
 19 behavior in KCCF. As part of implementation of this procedure, King County will
 20 develop a "Disciplinary History Risk Code" to identify inmates with documented
 21 histories of such behavior. The Disciplinary History Risk Code will be entered in
 22 the KCCF information management system. The Disciplinary History Risk Code
 will be read by a corrections officer during the intake process for each incoming
 inmate. When a positive notation is read in the inmate's Disciplinary History Risk
 Code, the corrections officer will contact a designated classification specialist for
 review and selection of an appropriate initial housing assignment consistent with
 the security requirements of the inmate in question.

23 § 3.1.3 Disciplinary Hearings. King County will maintain a procedure to prioritize
 24 disciplinary infractions to ensure that all serious infractions are heard within the
 25 time provided in the American Correctional Association (ACA) standards for local
 26 jail facilities. King County will make staffing available to ensure that disciplinary
 hearings are conducted and reported seven days per week. The Hammer Plaintiffs
 will raise no objection to efforts by King County to extend the permissible time
 frame for conducting disciplinary hearings to reflect that contained in the ACA
 standards.

1 A designated classification specialist will review all serious infraction
 2 hearings to identify those inmates whose violent, assaultive or ongoing aggressive
 3 behavior in the KCCF warrants the assignment of a positive "Disciplinary History
 4 Risk Code." In addition, classification specialists who hear disciplinary infraction
 5 cases of lesser severity will forward to the designated classification specialist
 6 reports on those inmates whom they believe should be reviewed for consideration
 for the Disciplinary History Risk Code. King County will ensure that the
 Disciplinary History Risk Code will be entered into the KCCF information
 management system.

7 § 3.2. Inmate Movement

8 King County will maintain procedures to ensure that all forms (currently known
 9 as Form 571 's), which are used for the movement of inmates by corrections
 10 officers without the intervention of classification specialists, will be reviewed by
 a Sergeant to ensure that movement of the inmate by the corrections officer is
 appropriate under the circumstances. All such forms will be referred to the
 Classification Section for review within one shift after the movement has taken
 place.

11 4.28 By placing Mr. Leae, an inmate with a known "violent" and "assaultive" history in
 12 the same cell as Mr. Meagher, King County breached the Hammer Agreement's requirements that
 13 individuals like Mr. Meagher be appropriately housed in a cell "consistent with [the inmate's]
 14 security requirements." § 3.1.2.

15 4.29 King County also breached Hammer Agreement § 3.1.3 because King County
 16 failed to adequately review Mr. Leae's "serious infraction hearings" and appropriately determine
 17 that his "violent, assaultive or ongoing aggressive behavior in the KCCF" warranted the
 18 assignment of a positive "Disciplinary History Risk Code," a determination that would have
 19 prevented the housing assignment that allowed the brutal assault.

20 4.30 King County also breached § 3.2 of the Hammer Agreement because King County
 21 failed to "ensure that movement of" Mr. Leae to Mr. Meagher's cell was "appropriate under the
 22 circumstances." Had it done so, Mr. Leae would never have been able to assault Mr. Meagher in
 23 the first place because he would not have been placed in a cell together with other inmates, and
 24 would especially not have been placed in the same cell as a vulnerable inmate like Mr. Meagher.

25 4.31 Because Mr. Meagher was an inmate at King County Jail, he is a third-party
 26 beneficiary of the Hammer Agreement. King County's failure to uphold its contractual obligations

1 under that agreement were a proximate cause of the assault against Mr. Meagher by Mr. Leae, and
 2 thus a proximate cause of Mr. Meagher's injuries.

3 4.32 In addition to providing evidence of and a separate basis for Plaintiff's negligence
 4 and civil rights claims, King County's breach of the Hammer Agreement forms the basis for a
 5 separate and independent breach of contract claim against King County.

6 5. FIRST CAUSES OF ACTION

7 (State Law Negligence Claims)

8 5.1. Plaintiff realleges the allegations made in the preceding paragraphs and
 9 incorporates the same as if fully set forth herein.

10 5.2. The individually named Defendants and Defendant Does, all as employees of King
 11 County working under color of law and during the scope of their employment, were negligent in
 12 their classification and housing of Mr. Leae and Mr. Meagher in their failure to follow
 13 KCDOAJD's own policies and the Hammer Agreement, and in their failure to reasonably protect
 14 Mr. Meagher from the foreseeable attack of a notoriously violent inmate. King County is liable
 15 for the negligent acts and omissions of those employees and agents under vicarious liability
 16 principles.

17 5.3. As for the liability of the individually named Defendants and Defendant Does 1-
 18 10, jailers have "a special relationship with inmates, creating an affirmative duty to provide for
 19 inmate health, welfare, and safety." *Gregoire v. City of Oak Harbor*, 170 Wn.2d 628, 639, 244
 20 P.3d 924 (2010). This includes a duty to "protect an inmate from injury by third parties." *Id.* at
 21 645. Defendants' acts and omissions and the acts and omissions of any yet-to-be named Defendant
 22 Does, breached that duty (as described above), and was a direct and proximate cause of Mr.
 23 Meagher's damages.

24 6. SECOND CAUSES OF ACTION

25 (State Law Breach of Contract Claims)

26 6.1 Plaintiff realleges the allegations made in the preceding paragraphs and

1 County, and violated Mr. Meagher's due process rights as described above. Those violations were
2 the direct and proximate cause of Mr. Meagher's harm.

3 7.3 Should discovery in this case show that Mr. Meagher's due process violations
4 resulted from the execution of KCDOAJD's policy or custom, and/or the inadequacy of training
5 by KCDOAJD that amounted to deliberate indifference to the rights of inmates, Plaintiff reserves
6 the right to amend the complaint to add a civil rights violation under 42 U.S.C. § 1983 against
7 King County, pursuant to *Monell v. Department of Social Services*, 436 U.S. 658 (1978).

8 **8. PRAYER FOR RELIEF AND DAMAGES**

9 WHEREFORE, Mr. Meagher, by and through his Power of Attorney, requests a judgment
10 against Defendants and Defendant Does 1-10 as follows:

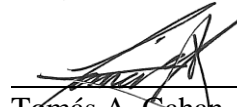
- 11 a) General and special damages, including for pain and suffering, in an amount to be
12 proven at trial;
13 b) Punitive damages as provided for by law;
14 c) Reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1983 or as otherwise
15 available under the law;
16 d) All applicable interest on the judgment; and
17 e) Other and further relief as the Court deems just and proper.

18 **9. JURY DEMAND**

19 PLAINTIFF hereby demands a trial by jury.

20 DATED this 26th day of February, 2019.

PETERSON | WAMPOLD
ROSATO | FELDMAN | LUNA



Tomás A. Gahan, WSBA No. 32779
Felix Gavi Luna, WSBA No. 27087
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the date shown below I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

Dated: February 26, 2019.

/s/Dana Vizzare

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